

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTONIO JERMAINE WILLIAMS,

Defendant-Appellant.

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UNPUBLISHED

November 15, 2002

No. 233925

Oakland Circuit Court

LC No. 00-173921-FC

Before: Griffin, P.J., and Gage and Meter, JJ.

PER CURIAM.

Defendant appeals as of right his convictions of assault with intent to commit murder, MCL 750.83, carrying a concealed weapon, MCL 750.227, and possession of a firearm during the commission of a felony, MCL 750.227b, entered after a jury trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged in connection with the shooting of complainant. Complainant testified that defendant, with whom he had argued in the recent past, drove into the parking lot in which he was standing and shot him. Defendant's passenger also testified that defendant shot complainant. Defendant's passenger acknowledged that a detective agreed to put in a good word for him at his probation violation hearing if he cooperated in this case, but maintained that the detective did not promise him anything, and told him to tell the truth.

During closing argument the prosecutor stated that although the jury might find that complainant was not the most sympathetic person, the court would instruct that the jury was not to base its decision on sympathy. The prosecutor stated that this type of incident occurred in the City of Pontiac and in other locations in Oakland County, and contended that in order for persons to be held accountable in communities such as Walled Lake or Troy, they also had to be held accountable on South Sanford Street in Pontiac. Defense counsel did not object to the prosecutor's comments. The jury found defendant guilty as charged.

The test of prosecutorial misconduct is whether the defendant was denied a fair and impartial trial. *People v Watson*, 245 Mich App 572, 586; 629 NW2d 411 (2001). Prosecutorial misconduct issues are decided on a case-by-case basis. The reviewing court must examine the pertinent portion of the record, and evaluate a prosecutor's remarks in context. *People v Noble*, 238 Mich App 647, 660; 608 NW2d 123 (1999). A claim of prosecutorial misconduct is reviewed de novo. *People v Pfaffle*, 246 Mich App 282, 288; 632 NW2d 162 (2001).

A prosecutor may not urge jurors to convict a defendant as part of their civic duty. *People v Bahoda*, 448 Mich 261, 282; 531 NW2d 659 (1995). A civic duty argument is improper because it injects issues into the trial which are broader than the defendant's guilt or innocence, and because it encourages jurors to suspend their own powers of judgment. *People v Crawford*, 187 Mich App 344, 354; 467 NW2d 818 (1991).

Defendant argues that he was denied a fair trial when the prosecutor appealed to the jurors' civic duty by telling them that persons in Pontiac must be held accountable for their actions just as they are in other locations. We disagree and affirm defendant's convictions. Defendant did not object to the prosecutor's allegedly improper remarks. Absent an objection, reversal is warranted only when plain error occurred that resulted in the conviction of an actually innocent defendant or seriously affected the fairness, integrity, or public reputation of judicial proceedings. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999). The prosecutor's remarks must be considered in the context in which they were made. *Noble, supra*.

An examination of the entire argument reveals the prosecutor acknowledged the jurors might conclude that complainant and the other witnesses were not the most likeable persons. However, it is likely that when the prosecutor stated that for persons to be held accountable in communities such as Troy they must also be held accountable in communities such as South Sanford Street in Pontiac, he was contending that the fact that the persons involved in the incident perhaps were not particularly likeable should not cause the jurors to cast the incident aside as unimportant. Any prejudicial effect of the prosecutor's comment could have been cured by a timely instruction. *People v Leshaj*, 249 Mich App 417, 419; 461 NW2d 872 (2002). Any error that occurred did not seriously affect the fairness, integrity, or public reputation of the proceedings. *Carines, supra*.

Affirmed.

/s/ Richard Allen Griffin  
/s/ Hilda R. Gage  
/s/ Patrick M. Meter